

**Remarks**

This amendment is in response to the Office Action dated May 21, 2003. Claims 9 and 28 have been amended and new claim 31 has been added. Claims 6-16 and 21-31 are currently pending. Reexamination and reconsideration are respectfully requested.

Applicant thanks the Examiner for indicating that claims 16, 21-26 and 30 are allowed.

Claims 9-12 were rejected under 35 U.S.C. 112, second paragraph as indefinite.

Applicant notes that the Examiner's statement that there "is no description in the specification as originally filed of forming a protection film prior to forming an anti-oxidation film . . ." does not appear to be accurate because original claim 9 recited in part "before the forming of the anti-oxidation layer, forming a protection film over the semiconductor substrate in the first recessed section and in the second recessed section." Applicant respectfully submits that original claim 9 provides an adequate written description of the subject matter and accordingly, the rejection should be withdrawn. For reasons unrelated to the section 112 patentability rejection as discussed above, applicant has amended claim 9. Applicant respectfully submits that the rejection of claim 9 should be withdrawn. Claims 10-12 depend from claim 9 and the rejection of these claims should be withdrawn for at least the same reasons as claim 9.

Claims 28-29 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. The applicant has inserted the term "nitride" after "oxide" on line 9 of the claim as suggested by the Examiner. Applicant respectfully submits that claim 28 and its dependent claim 29 comply with section 112.

Claims 6-7, 13-15 and 27 were rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,181,090 to Maruo ("Maruo") in combination with U.S. Patent No. 4,637,128 to Mizutani ("Mizutani"). The rejection is respectfully traversed.

Applicant respectfully submits that the Examiner has not met his burden to establish a suggestion or motivation in the art for the proposed combination and modification of the prior art. one of ordinary skill would not make the combination of Maruo and Tanaka suggested by the Examiner. The Examiner stated at page 4 of the Office Action that "It would have been within the scope of one of ordinary skill in the art to combine the teachings of Maruo with Mizutani because it would enable formation of LOCOS oxide layers 11 and 15 of Maruo to be performed." Applicant notes that LOCOS oxide layer 11 and 15 of Maruo are already formed as

described in Maruo. The Examiner appears to have cited no portion of the art that suggests why one of ordinary skill would desire to modify Maruo in view of Mizutani as suggested by the Examiner. The teaching or suggestion to make the claimed invention should be found in the prior art, not the applicant's disclosure. MPEP at section 2143.

Moreover, even if the references were combined, the combination suggested by the Examiner is deficient. As seen, for example, in Mizutani Fig. 4H, what the Examiner appears to refer to as recessed sections in substrate 50 are spaced away from the gate region and appear to be positioned outside of the source and drain regions 70A and 70B. Applicant submits that the Examiner's citations to Mizutani do not describe or suggest that "a first semi-recessed LOCOS layer is provided between the gate dielectric layer and the drain region" and "a second semi-recessed LOCOS layer is provided between the gate dielectric layer and the source region" as recited in claim 6.

Applicant respectfully submits that the Examiner's combination of Mizutani with Maruo would likely only lead one of ordinary skill to modify the channel stopper regions 12 (located outside of the source and drain regions 18 and 18a). Mizutani does not describe a recessed section that is positioned between a drain region and a gate dielectric layer or between a source region and a gate dielectric layer, nor suggest such a structure. As a result, the Examiner's proposed combination is deficient.

Thus, for at least the reasons stated above, applicant respectfully submits that the Examiner has not established a prima facie case of obviousness and accordingly, the rejection of claim 6 and its dependent claims 7 and 13-15 should be withdrawn. The rejection of claim 27 should also be withdrawn for at least reasons similar to those described above for claim 6.

Claim 8 was also rejected under 35 U.S.C. 103(a) as being unpatentable over Maruo in view of Mizutani. The rejection is respectfully traversed. Claim 8 depends from claim 7 which depends from claim 6. Applicant respectfully submits that the rejection of claim 8 should be withdrawn for at least the same reasons as claim 6 as described above.

Claims 28-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Maruo in view of Mizutani, and further in view of U.S. Patent No. 6,423,631 to Iyer et al ("Iyer"). The rejection is respectfully traversed. Applicant respectfully submits that the rejection of claims 28-29 should be withdrawn for at least similar reasons as those discussed above for claim 6, and that

the Examiner's citation to Iyer does not overcome the deficiencies of the combination of Maruo and Mizutani as described above.

New dependent claim 31 has been added. Support for the claim may be found throughout the specification and figures. Examination is respectfully requested.

The Office Action also included various comments concerning the art and the non-patentability of features in various of the above mentioned claims. Applicant respectfully disagrees with the Examiner's non-patentability conclusions. The discussion above has directly addressed some of those comments and the Examiner's other comments are deemed moot at this time in view of this response.

Applicant observed that on Form PTO-1449 attached to the Office Action, the Examiner did not initial U.S. Application Serial No. 09/847,071, filed 5/1/01, having U.S. Patent Publication No. US2002/0003289 A1, and pending claims. A copy of the application and claims was provided with the IDS documents. Applicant respectfully requests that the Examiner confirm that this reference was considered and initial the reference on the Form PTO-1449.

Applicant respectfully submits that the pending claims are in patentable form for at least the reasons stated above. Reexamination and reconsideration are respectfully requested. If, for any reason, the application is not in condition for allowance, the Examiner is requested to telephone the undersigned to discuss the steps necessary to place the application into condition for allowance.

Respectfully submitted,

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Alan S. Raynes

August 21, 2003  
(Date)